



Attorney Docket No.: 43888-314
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Yuu INATOMI, et al. : Customer No.20277
Serial No.: 10/827,424 : Confirmation No.: 2569
Filed: April 20, 2004 : Group Art Unit: 1745
Examiner: HELEN OK CHU

For: ELECTROCHEMICAL DEVICE AND ELECTRODE ACTIVE MATERIAL FOR
ELECTROCHEMICAL DEVICE

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed
April 25, 2006, having a shortened statutory period for response set to expire
May 25, 2006, wherein the Examiner required restriction between the following distinct
Species:

Species 1A: Claims 19, 21-22, 24-25, 27, 28, 30, 32, 34, 35, 37, 38, 40,
41, 43, 44, 46, 47, 49, 50, 52, 53, 55, 56 drawn to an electrode active material for an
electrochemical device represented by formula 1a and 2 in addition to the limitations set
forth; and

Species 1B: Claims 20, 23, 26, 29, 31, 33, 36, 39, 42, 45, 48, 51, 54 and
57 drawn to an electrode active material for an electrochemical device represented by
formula 1b and 2 (Claim 31) in addition to the limitations set forth.

Applicants elect **Species 1A**, with claims 19, 21-22, 24-25, 27, 28, 30, 31, 32, 34, 35, 37, 38, 40, 41, 43, 44, 46, 47, 49, 50, 52, 53, 55, 56 and 58 readable thereon, for initial prosecution on the merits.

It is noted that Applicants have indicated that claims 31 and 58 also read on the elected species and should also be included claims examined in this application, as the restriction requirement imposed by the Examiner appears to be based on the recitation of the different X groups in the claims, rather than different R groups.

Applicants also reserve the right to file a Divisional Application for the non-elected claims, which the Examiner has indicated are patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: _____

5/25/06

By: _____

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